

Meeting of 1997-11-10 Rescheduled Regular Meeting

MINUTES
LAWTON CITY COUNCIL RESCHEDULED REGULAR MEETING
NOVEMBER 10, 1997 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:
Presiding Gil Schumpert, City Manager
John Vincent, Sr. Asst. City Attorney
Brenda Smith, City Clerk

The meeting was called to order at 6:00 p.m. with Invocation by Rev. Tommy Smith, Western Hills Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall bulletin board as required by State law.

Roll Call

Present: Jody Maples, Ward One
Jeff Sadler, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Charles Beller, Ward Six
Carol Green, Ward Seven
Randy Warren, Ward Eight

Absent: Richard Williams, Ward Two

PRESENTATION: Citizen of the Month Award to Raymond McMurry.

Patsy Bard, Chairperson, Mayors Commission on the Status of Women, introduced Raymond McMurry, who came to Lawton in January 1996 to manage the J.C. Penney Store. She said in the short time Mr. McMurry has been in Lawton, he has become active with the Drug Busters Moonlight Walk Against Drugs; mentor to young couples in need; Lawton Chamber and Fort Sill Coop; Downtown Rotary Club; and the Chamber Business and Industrial Task Force. He and his wife Pat have three children and two grandchildren.

Mayor Marley presented an Official Proclamation from the City of Lawton and congratulated Mr. McMurry on the volunteer efforts he gives to improve the community. Mr. McMurry said this was one of the easiest towns to become involved with that he had ever been to.

AUDIENCE PARTICIPATION:

Jacob Dubusk said he had lived in Lawton for 27 years and wanted to speak regarding Robinsons Landing. He said he camps there frequently, is 100% disabled and spends seven to eight months at Robinsons Landing each year. Dubusk said the concessionaire, Larry Meese, has made tremendous improvements and campers have helped make it a nicer site by buying and planting flowers. He said the area is clean and well kept, and the unreasonable campers have not returned. Dubusk said Mr. Meese has put up fences to improve traffic control, which prevented his ice chests and fishing equipment from being picked up by people driving through, grabbing them and going out through the Robinsons Landing residential area; blocking the back exit and making it a walk through area only has helped the security of the city property. Dubusk said people are complaining about the fence but they should look at their own property first. He said the people who live there are not City residents and should have nothing to say about the property the City owns and they are trying to run Robinsons Landing. He said Mr. Meese has asked that the residents come out to discuss the concerns but that some residents had been abusive to Mr. Meese at the Lake & Land Commission. Dubusk asked that the Council support the concessionaire because he has made improvements and has a good operation.

Michelle Landoll, Elgin Dream Team 4H Club, said their group wanted to discuss the prairie dogs. She said 12 members of the 4H Club watched prairie dogs being relocated from Elmer Thomas Park, and the Parks & Recreation crews did a good job of handling the prairie dogs.

Katrina Landoll, Elgin Great Plains 4H Club, said they had heard that the Cameron Biology Department was working on a plan to watch prairie dogs and to be responsible for keeping the population size to a small group in check. She said if the plan were approved by the Council, maybe some prairie dogs could stay in Elmer Thomas Park, which they would like to

see. Landoll said several members had signed a paper expressing their interest in this matter.

Michael Landoll, Elgin Middle School Great Plains 4H Club, said other kids besides the 4H Club had asked to sign the paper about the prairie dogs and there were 57 signatures. He said the general public is not aware of the ecologic consequences of removal of a prairie dog town and it is not easy to get another one started. Landoll said Parks & Recreation did a good thing in capturing them for relocation instead of killing them. He asked that a small number be kept at Elmer Thomas Park for study and enjoyment so people do not have to travel so far to see them.

Candice Tolivera said the prairie dogs may be a pest on rare occasions but they are mostly good for the environment. She said their tunnels provide living space for other animals such as burrowing owls, rabbits and spiders, which are all needed.

Sheila Volley, Great Plains Elgin 4H, said they had learned that prairie dogs were an important link in the prairie dog eco system, and there is a direct relationship between the prairie dogs.

Sabina Volley, Great Plains Elgin 4H, said she thought the prairie dogs should be able to stay. She said the playground at Elmer Thomas Park is not handicapped accessible so she and her family spend a lot of time with the prairie dogs and enjoy them very much. Volley described how prairie dogs build their homes and said the people deserve the prairie dogs and the prairie dogs deserve a home.

Mayor Marley thanked the group for coming and said the Council would take their comments into consideration. He congratulated the young people for having the foresight and courage to speak before Council and encouraged others to do the same.

Dr. Lynn Musselwhite said he was speaking in behalf of the Wichita Mountains Sierra Club and the Stewards of the Earth, which are both encouraged by the interest shown by the Council and staff in improving Lawtons solid waste management procedures. He said they applauded the efforts to develop a system to meet the needs of the community, and yet is economically feasible. Musselwhite asked that Council and staff consider including a recycling component in the solid waste management plan, and said they felt the majority of the citizens would support City sponsored recycling if it were convenient and economically feasible.

Musselwhite said on Tuesday and Wednesday of last week, volunteers conducted a recycling survey at Wal-Mart; approximately 200 local citizens were asked about their willingness to participate in a recycling program and also to pay for it. He said 96% responded that they would be willing to participate in a recycling program if the City provided either curb side recycling or convenient drop off sites; when asked if they would be willing to pay, 70% indicated they would be willing to pay between \$1 and \$5 per month for such a service. Musselwhite said a number of persons were surprised Lawton did not have such a service already, and that other communities considered recycling a normal, city service.

Musselwhite said presently many Lawton citizens go to considerable trouble to recycle, taking items to Fort Sill or the recycling site their organizations operate once a month. He said such voluntary efforts, though commendable, are no substitute for regular, city supported service. Musselwhite said the participation of citizens in the voluntary recycling programs and the result of the survey indicate strong community support for some type of recycling program. He said he hoped the Council and staff would take this into consideration and develop a recycling component to the Citys solid waste management plan.

Consider approval of Minutes of City Council meetings of October 28 and 30, 1997

Maples said she had a correction; Item 6 said it would not be considered at the request of the initiator and that is incorrect; it was just supposed to be pulled and brought back tonight but it is not on this agenda. She requested it be brought back on the next agenda.

MOVED by Shanklin, SECOND by Green, for approval of the Minutes. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

UNFINISHED BUSINESS:

1. Consider adopting an ordinance amending Section 22-401, Chapter 22, Lawton City Code, 1995, amending the definition of Rubbish and Trash; and declaring an emergency. Exhibits: Ordinance No. 97-56.

Schumpert said Council discussed the policy on disposal at the landfill at the last meeting, and to change the policy, a change is needed in the City Code. He said this ordinance makes the necessary change.

MOVED by Beller, SECOND by Purcell, to approve Ordinance No. 97-56, waive the reading of the ordinance, reading the title only, and declaring an emergency.

Shanklin asked if the construction debris can be brought by the individual in his pickup or trailer as long as it does not have a commercial license and response was yes.

(Title read by Clerk) ORDINANCE NO. 97-56
AN ORDINANCE AMENDING CHAPTER 22, LAWTON CITY CODE, 1995, BY AMENDING SECTION 22-401,

DEFINITIONS, SUBSECTION 12, RUBBISH AND TRASH, PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

2. Consider adopting Council Policy No. 10-3, Collection of Fees at the Sanitary Landfill. Exhibits: Council Policy No. 10-3; List of Definition.

Schumpert said two corrections are needed: Paragraph A1, second line, yard "waste" should be corrected to yard "trash"; the first line of Paragraph B should read "person or persons hauling" and strike the word "residential" and continue with "solid waste" and insert the words "from their own personal residence" and continuing. Schumpert said this should help clarify the fact that if you are hauling it from your own property, you can do that.

Shanklin asked if the scale attendant would be given any assistance. He said six vehicles may be coming out and six more going in at the same time, and one attendant cannot be expected to keep up with the volume. Schumpert said the person will do the best he can and staff will look at it in the next budget; if it appears to be a large problem, an additional employee will be recommended.

MOVED by Shanklin, SECOND by Sadler, to approve Council Policy 10-3.

Purcell suggested the corrected language regarding trash from a persons own residence be included in Paragraphs A1 and A2. Shanklin and Sadler agreed to including that language. Shanklin said many loads are tarped down and the attendant cannot look at each one.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Sadler. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

3. Discuss the proposed Museum Trust Indenture and the proposed City-Museum Trust Agreement and take appropriate action. Exhibits: Letter to President, Institute of the Great Plains, 10/23/97; Draft Trust Agreement; City-Trust Agreement.

Mayor Marley said Items 3 and 42 are pulled by the initiators to be discussed later. Members asked that Item 3 be discussed at this time for purposes of guidance only; Item 42 will be tabled until the next meeting so all members can be present.

Schumpert said several meetings have been held with the Institute and McMahon Foundation and a trust indenture has been developed. He said the Authority would assume control, management and operation of the Museum beginning July 1, 1998; the City will enter into a lease agreement with the Authority for a 50 year term; intention is the Institute will enter into an agreement with the Authority to lease its present and after acquired artifacts to the Authority, and the Authority would operate the Museum. Schumpert said the advantages are that the Authority can receive grants and do things the City cannot do; it allows them greater flexibility and freedom relating to employees, benefits and salaries. He said McMahon Foundation has reviewed the agreement and recommended minor changes, which have been made, and with that, they are in support of it. Schumpert said Paul Fisher, President of the Institute, is present to speak regarding their position.

Schumpert said an area of contention between himself and the legal staff is the appointment of members to the Authority; the attorneys office feels there is additional liability with the City that may not be needed by the City Council appointing the trustees. Schumpert said his position is that because the museum is City realty and City property and impacts on what is done in Elmer Thomas Park, and the City is responsible for a significant amount of structure and realty, that the trustees should be appointed by the City Council, and under that concept, McMahon Foundation would nominate three trustees, the Institute of the Great Plains would nominate three trustees, and there would be three trustees nominated by the Council, and the Council would approve those, and they would serve three year terms with one person from each entity being reappointed every three years. He said the legal staff recommended three trustees be appointed by the City, three by McMahon Foundation, and three by the Institute of the Great Plains. Schumpert said that is the only problem he is aware of with the trust indenture. He said he was not aware of any concerns of the Institute with regard to the trust indenture.

Shanklin asked the basis for the disagreement. Vincent said a public trust is to be an independent body, and as was experienced in the Retta Seabolt lawsuit against the City of Lawton and the Housing Authority, the plaintiffs in that case tried to tie the Lawton Housing Authority to the City and make the City the policy making body of the Housing Authority because the City appoints all the Housing Authority members. He said to defeat that legal argument, the legal staff proposes that each of the bodies interested in this Authority appoint three of the members to give the separation.

Shanklin asked why the Council should vote on the appointments. Vincent said if the Council were to approve the nominations by the other entities, then those are Council appointments even though they are nominated by the other bodies.

Mayor Marley asked the difference between this and the Airport Authority. Vincent said there is really none. Mayor Marley said the Council appoints all the members to the Airport Authority. Vincent agreed and said this is the first trust that has been created since the legal maneuver had been tried. Shanklin asked Fisher to comment.

Paul Fisher, 308 Ridgeview Way, Lawton, President of the Institute Board of Trustees of the Museum of the Great Plains, said the initial proposal to them was that the Institute would recommend three trustees and the Council would appoint or confirm the appointment, and they were happy with that, and would be happy with the other method also. Fisher said he was pleased to hear that this is the argument because one way is good and the other way is better.

Beller said he would prefer the Institute appoint its own members because it would be more appropriate and they would know who they could work well with. Schumpert said each group would nominate its members but Council would take the action to approve them; the City Attorney is recommending the groups not nominate, but appoint, their members. Beller said the further the City can be distanced from any probability of a suit, the better the City would be, and he would prefer that each group appoint their members. Beller said he felt the McMahon Foundation would prefer to appoint members. Schumpert said when he spoke with the Director of the Foundation he indicated they were satisfied with the ability to nominate. Beller said the question is whether they would be more satisfied to appoint. Fisher said the Institute would take either one. Mayor Marley asked Mr. Wood if he would like to comment.

James Wood, McMahon Foundation Director, Route 1, Box 74, Geronimo, said the McMahon Board of Trustees had an opportunity to review the trust indenture, however, they did not take any action on the trust indenture formally, they made recommendation for minor changes to exclude McMahon Foundation from the wording of the trust indenture. He said their motion was not to take any action whatsoever on the trust indenture until all the agreements were presented to the Foundation Board of Trustees at the same time. He said a letter was sent stating that action.

Sadler said he did not think it made much difference because if the other entities submitted nominations, chances are the Council would approve them. He said the City may have a little more control if it was written the way the City Manager recommended. Sadler said he did not want to see another situation like with the golf course where it is City property but the City seems to have no control and can only listen to complaints.

Purcell said he felt the other entities should appoint their members to remove the City from liability. He said he agreed it would likely be the same people so there would not be a need for the City to approve them. Schumpert said the consensus appeared to be that the preference is for each entity to appoint their own members.

Schumpert said the second document is the cooperative agreement, which is the document where the City enters into a lease for 50 years. Vincent said there had been no debate among City staff and no input had been received from the other organizations on this particular agreement.

Purcell said Page 6 of the document, and Page 21 of the agenda folder, speaks of the duration of the trust and there appears to be no way to terminate it. He said Page 17, Article 8, states the trust is irrevocable and asked if an explanation could be provided. Vincent said regarding the irrevocable portion, there will be an entity that creates this trust; the entity that creates the trust will have no power to revoke the trust once it is created. Purcell asked who the entity will be that creates the trust. Vincent said it will generally be an individual, such as the Mayor; the Mayor would create the trust and make the initial nine appointments as trustees, and after the trust is formed, the Council would appoint three, the McMahon Foundation would appoint three, and the Institute would appoint three, replacing the initial trustees. Purcell asked if the Council could revoke the trust and Vincent said no. Vincent said as far as duration, it is in perpetuity but there are grounds in the State Statutes, which are cited on Page 18, paragraph two, to revoke a trust. He said the methods are described in the Statute.

Purcell said Page 9 of the trust indenture, or Page 24 of the agenda folder, states the trustees may be removed for cause by the appointing body and asked who that would be based on this discussion. Vincent said the Council would appoint three, the McMahon Foundation would appoint three, and the Institute would appoint three.

Sadler said he understood there was a controversy before he returned to the Council regarding the employees getting paid, who they were working for, and so forth, and that direction was given that they would be City employees and paid like all City employees and to not receive any additional compensation. He asked if that was correct, that if the stipends would cease until something was worked out. Schumpert said that is correct; he said once the trust is created, the individuals that would work for the trust will be trust employees. Schumpert said the second issue to that is, and during these discussions, it came to light that the current Museum employees were receiving additional stipends and Council discussed that and he (Schumpert) put out a memorandum to the Museum through the Parks & Recreation Director that as City employees they would not receive any additional stipend.

Sadler said he understood after that happened that they continued to receive something and asked if that was the case. Schumpert said yes and no; they received nothing for a period of about 12-14 months approximately and information has been received that employees have received or are receiving some type of compensation and that is being looked into at this point in time.

Sadler said it had a great deal of bearing on his faith in the Institute and the cooperation if the Council gives plain direction and it is not followed while the Museum is under the City's control, it makes him want to vote to retain control and the City apparently does not have control now, and it is out there in the community that if you are a government employee you can do anything you want to and nothing seems to happen. He said he would not ask more about it now but wanted to know what was going on and that was one reason he had asked that this be discussed tonight because he was very concerned about that type of behavior going on among the City employees and the organization and that does not

Speak well for any of us.

Schumpert said the only thing he would like to say at this point is that they are looking into the situation and seeing what the facts are of the allegations.

Shanklin asked if that is by Code, ordinance, or what law, regarding not receiving additional compensation. Schumpert said it comes from the Charter.

Schumpert said it gets a little more complicated because police officers have contracts with various firms throughout the City to work as security officers, and there is a contract that has been approved by the City Attorneys office. He said it is basically clear, according to the attorneys, that you can work and receive compensation, however, you cannot receive compensation for doing the same things that you do now, in other words, if the police officer is, for example, at an event as a police officer, then he cannot receive compensation from someone else and receive compensation as a police officer also. Schumpert said the other stipulation is that if we call the officer back to work, then their contract stipulates they work for the City and they drop what they are doing there and come back to work for the City, so there are situations under which City employees can work and get additional compensation but the key is whether they are doing the same job they would be doing for the City.

Purcell said he thought when the Council approved to continue paying the museum employees for a period of time until this document could be put in place that the Council directed that the stipend would cease and desist and he felt that could be found if the minutes were checked that the Council voted on that and approved it, although it may have only been discussion. He asked if the auditor is now able to get in there to look at the facts at this point in time; as of the other day, he understood there was a problem and he wanted to know if that had been straightened out. Purcell said Mr. Huck is indicating that had been worked out and he would accept that.

Schumpert said the staff has direction, and the document missing is the one Mr. Wood alluded to; there are three documents involved, one is the trust indenture, the second is the cooperative agreement between the City and the Authority, and the third document is the cooperative agreement between the Institute of the Great Plains and the Authority. He said as far as could be determined, the Institute had taken no formal action on that agreement, and we have a draft of it, so there is a document missing from this whole package.

6. Consider directing staff to prepare a resolution authorizing the Mayor to appoint a committee composed of a cross section of leaders from industry, education, the Chamber of Commerce, Comanche County, business and the City of Lawton to form an industrial economic development team. Exhibits: None.

Shanklin said the argument is not with the job that has been done but possibly with where the authority comes from, and the concern is that there are only so many dollars that the citizens of Lawton and Comanche County can generate regardless of the project. He said many projects are needed but not all can be done, and a recent example is the Central Junior High School which failed by 2-3 percentage points. Shanklin said he felt if there were an organization with the authority that the Mayor would have with this organization, they would have supported that question, or counseled with the school board and said that is not an item that is prioritized at this moment.

Shanklin said the City spent \$22 million on the Wastewater Treatment Plant to take care of 150,000 people, but we do not have that population and will not until Fort Sill and the sales tax stabilizes. He said that kind of money did not have to be spent at that time, but it was. Shanklin said another question is where a city-county jail would fall in the prioritization; instead of one group going on one tangent, and another going another direction, and the City doing what EPA mandates such as the I & I for \$60 million but the Wastewater Treatment Plant was not and a \$10 to \$12 million add on could have been done just as easily as the \$20 million. He said he had no problem with the list of people Barnthouse distributed and asked if it was the Chamber of Commerce and Barnthouse said yes. Shanklin said it is a good group, but it should be more of a cross section and a group is needed to look at everything that should be done in Comanche County with taxpayer dollars.

Mayor Marley said he had discussed this with Shanklin and rather than the word economic development, he was talking more about community development. Marley said there is a list of things that should be done at some time or the other, such as Shanklin pointed out, but the economic development mixed it up and economic development has been going on for several years with a lot of activity taking place and time, money and effort have been donated. He said to change that process at this time would not be right, but a committee is needed to do community development and that would be a good idea. Marley said he would be willing to form a committee to talk about community development, figure out what needs to be done and prioritize a list of projects so everyone will know where we are going and make sure the whole community would support the project.

Shanklin said that is an industry in itself, the \$10 million junior high was an industry and it was needed to solidify the central part of town for a dozen different reasons. He said it would have helped those trying to promote economic development to have such a facility. Shanklin said he did not know that a motion or resolution was needed but wanted the Mayor to have the authority to get it started. Mayor Marley said it would not be a problem for him to do that, and asked Mr. Barnthouse to address economic development.

Beller asked if community development meant industrial or economic development. Mayor Marley said no. Beller said we still need this group to pursue economic and industrial development and Mayor Marley agreed.

Jere Barnthouse, 1503 NW 31st Street, said he was with a group last Thursday that was focusing on funding for economic development for the next five to ten years or further. He said he appreciated the comments made so far and agreed. Barnthouse said right now economic development funding is almost zero; there are several prospects but no funding to draw on. He said the future of economic development funding may be some public and some private funds, and they are looking at how other successful and similar communities have funded economic development, which may initiate a debate on how that funding should be provided.

Barnthouse said they were currently focusing on funding and that he would like to be involved in a community development plan. He said the certified cities program was successful and the distributed information is a result of that effort. Barnthouse agreed Shanklin was right that the school board goes their direction, the Chamber goes theirs, and the Council goes theirs, and no one addresses the others needs. He said as opposed to prioritizing one issue versus another, at least there should be an arena where the groups can visit about the needs of the others and plans for the future, and make something of the community that our kids see something that made sense in overall planning on how the funds are spent. Barnthouse said he was initially concerned that it would be an effort to duplicate something that was already in place. He said he was not sure there was adequate coverage on the economic development committee and would be glad to hear suggestions.

Shanklin said the groups should get behind the different efforts and make a statement in favor or opposed due to the shortage of money.

4. Consider adopting a special, non-emergency ordinance, authorizing the lease of approximately 5.5 acres of land, together with the museum building and trading post located at Elmer Thomas Park to the Museum of the Great Plains Authority. Exhibits: Ordinance No. 97-57.

Beller asked if this is premature since there is no agreement. Vincent said four documents must be prepared regarding the Museum, and the fourth is the lease of the property from the City to the Authority. He said the property is valued in excess of \$50,000 and to comply with the Charter and State law, it cannot be an emergency ordinance but must be a special non-emergency ordinance that must lay dormant 30 days after passage. Vincent said to have this completed by January 1, the ordinance should be passed and lay dormant for 30 days, and in the mean time, the authority will be created and a lease will be drafted in accordance with the trust indenture. He said during this 30 day period, if there is a sufficient protest referendum petition filed with the City Clerk, the election can be held in conjunction with the usual March municipal election. Vincent said the purpose of adoption at this time is to allow the 30 days to run.

MOVED by Shanklin, SECOND by Sadler, to adopt Ordinance No. 97-57, waive reading of the ordinance.

(Title read by Clerk) ORDINANCE NO. 97-57

A SPECIAL NON-EMERGENCY ORDINANCE AUTHORIZING THE LEASE OF APPROXIMATELY 5.5 ACRES, MORE OR LESS, OF CITY-OWNED REAL PROPERTY, TOGETHER WITH THE BUILDINGS THEREON, THE VALUE OF WHICH EXCEEDS FIFTY THOUSAND DOLLARS (\$50,000.00), TO THE MUSEUM OF THE GREAT PLAINS AUTHORITY, A PUBLIC TRUST, SAID LAND BEING LEGALLY DESCRIBED HEREINAFTER, AND DECLARING THAT SAID LEASE IS MADE IN FURTHERANCE OF A PUBLIC PURPOSE USE; PROVIDING FOR PUBLICATION OF FULL TEXT OF THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE AND MAKING PROVISIONS FOR A VOTE THEREON BY REFERENDUM PETITION AS REQUIRED BY THE LAWTON CITY CHARTER, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE LEASE AGREEMENT TO THE MUSEUM OF THE GREAT PLAINS AUTHORITY, A PUBLIC TRUST, AFTER THE EFFECTIVE DATE OF THIS ORDINANCE.

VOTE ON MOTION: AYE: Shanklin, Beller, Green, Warren, Maples, Sadler, Purcell. NAY: None. MOTION CARRIED.

5. Consider approving a request for a left turn bay and median opening at 4005 West Gore Boulevard. Exhibits: Schematic Drawing and Letter from Landmark Engineering; Council Policy 8-2; Memo dated 10/14/97 from Traffic Engineer.

Sadler said he started the initiation process due to concerns of area residents regarding the possibility of commercial traffic on 40th Street when Council was considering the rezoning at #8 NW 40th. He said the residents asked about having the median opened to encourage traffic to remain on Gore. Sadler said staff recommended denial and he understood they were doing their job by following the policy but he felt this instance should be reviewed because it would be safer for the traffic, rather than having cars go to 40th and make a U Turn or putting the commercial traffic into the residential area, the traffic could cut across and go into the bank, which would be a safer method. He said this left turn bay would be about the same distance from the bank to 40th as it is from 40th to Arlington, and there are already left turn bays at 40th and Arlington, which is no where near 450 feet, and they all function just fine without any problems.

Beller agreed with Sadler and said he had observed the same things as were stated. He said making a U Turn would be ludicrous if traffic could turn directly into the bank and that he supported the turn bay.

Purcell asked what the staff recommendation would be if there were no Council policy. Marsha Hinds, Traffic Engineer, said there are other areas which have not been considered, such as when traffic is east bound on Gore, if a turn bay is allowed, it would allow two turns. She said the more limited access you have, the ability to make a left would be easier.

Beller said two blocks east there are no medians and it works fine. He asked what the problem would be in taking the center median out of this area. Hinds said a fifth lane section would be a totally different design and the roadway is so wide that it would require a lot of restriping. Beller asked if it would be better to turn into 40th Street or to make a U Turn while traffic is waiting to enter Gore Boulevard to go east.

Hinds said this has been an on-going situation for a couple of years and the accident reports for the last two years show the only ones are where people were coming out of 40th Street; there are no accidents on left turns into 40th or U Turns. Beller said that was the point, if you keep traffic from turning left into 40th Street, we are negating the possibility of accidents. Hinds presented a viewgraph of the area and explained potential problems. Maples asked the accident rate for the turn bay at Arlington, which is less than 450 feet. Hinds said she did not pull those. Beller said it is not 450 feet either to the east or west.

Purcell asked if staff would still recommend no turn bay if there were not a policy. Hinds said traffic would cross the left turn bay and get into the other lanes. Purcell asked if it could be done so traffic could make a left going east, take a left turn into the bank but fix it so you could not make a left turn heading east on Gore. Hinds said the request was for a median opening with a left turn bay, which usually includes full access, although stipulations could be included in an approval. Hinds said there was not yet an agreement on where the driveway would be located because of some of the design concerns. Shanklin said he understood they would not come out that direction, there would be entry but not an exit. Hinds said the first set of plans showed no turn bay opening.

Maples said a similar situation existed with Wal-Mart and the traffic flow was changed. She said changes could also be made here if needed but that Council did not know that there would be accidents. Purcell said it would be good to have it done completely the first time, but there is a turn lane going east out of 44th Street, and the area past the end of the median has a big no U Turn sign but everyone makes U Turns there. He said those people will get into the lane wanting to turn left into the bank, which could be a problem. Beller said the opening would seem to prevent U Turns, which would appear safer.

Mayor Marley asked the answer to the question regarding the survey and research on this particular intersection. Hinds said the accidents on 40th Street were people taking left or right turns but none dealt with a left turn bay going into 40th or making U Turns. Mayor Marley asked if a fifth lane could be installed and the entire median removed. Hinds said yes and on median openings, the work is done at the expense of the person requesting the opening and it would be very expensive to have a fifth lane. Schumpert asked if it could be done from a safety standpoint. Hinds said she did not research it that way but it is a very wide area and modification would be needed on lane sizes, and many cities use the fifth lane sections.

Sadler said in regard to accidents where people pull out from 40th and get broadsided, it is likely because they have been sitting there waiting for the traffic on Gore to clear and find a small opening and get hit. He said we would add to that problem if people make U Turns; traffic will have to wait just that much longer. Sadler said it would be safer to extend the bay that is already there and put an opening in it; the opening will not be right behind the houses because the bank is already planning on a deceleration lane which will move their driveway far enough west that the two things will be separate and further apart than other existing openings in that vicinity and other places in town.

Green said the people requesting it will pay the expenses and asked if they would pay for a fifth lane. General response was it would not be right for one person to pay for that entire area.

MOVED by Sadler, SECOND by Maples, to set the policy aside for this and approve the request for the left turn bay and median opening at 4005 W Gore. AYE: Beller, Green, Maples, Sadler, Purcell, Shanklin. NAY: Warren. MOTION CARRIED.

7 Consider moving the Lakes Division from the Parks & Recreation Department to the control of the City Manager or Assistant City Manager, and assigning the duties of the division to be solely maintenance related items. Exhibits: None.

Shanklin said he wanted to pull this item for the same reason the other two were to be pulled, that Mr. Williams wanted to be present. He said all the Lake & Land members were called by the maintenance leader at the lakes and told that he (Shanklin) was planning to do away with the Lake & Land Commission. Shanklin said he wanted that to be looked into, it is simply not true and was never stated anywhere. Shanklin said he had worked with the Commission for ten years and did not like that being done.

8. Consider adopting an ordinance amending Section 23-541, Lawton City Code, 1995, making it an offense not to wear seat belts in passenger cars, amending the penalty provisions and declaring an emergency. Exhibits: Ordinance No. 97-58.

Shanklin asked if state law required Lawton to do this. Vincent said the State Statute was amended and became effective November 1 requiring police and law enforcement officers aggressively ticket people who are not wearing their seat belts in prescribed motor vehicles. Shanklin asked the fine and Green said \$20.

Schumpert said the Council does not have to do this, but if it is not adopted, the revenue from the tickets would go through another system. Vincent said the State also raised the fine from \$10 to \$20, and this allows Lawton police to prosecute the tickets in Municipal Court rather than having to take the tickets to District Court.

Warren said he thought it was ludicrous for officers to ticket people for not wearing seat belts, while it is legal to put kids

in the back of a pickup and drive down the road. He said that makes no sense at all.

Schumpert said there also appears to be a question as to whether the pickup falls under this ordinance. Vincent said there is a definition in Title 47 of a truck, and a half ton pickup and larger meets that definition so there is a question and legislation is being proposed for the next session to clear up that controversy. Shanklin asked if pickups would be ticketed. Schumpert said half ton, so officers must now distinguish between a half ton and a quarter ton. Warren said children may ride in the pickup bed. Sadler asked if half ton trucks would be ticketed. Schumpert said half ton and above would be ticketed. Vincent said half ton would not be ticketed.

Sadler said he would vote in opposition, although he was not opposed to seat belts, but felt it was another case of the government getting in peoples business too much. He said he favored requiring a child to be in a car seat and kids under a certain age to wear helmets on motorcycles, because they are young people and deserve protection. Sadler said comments had been made that accidents were caused by people using cell phones in cars, and the next step may be to outlaw that, so he did not feel this should be done.

Purcell said citizens have to pay for injuries because people decide not to wear a seat belt, and when that stops, he would agree with Sadler.

MOVED by Purcell, SECOND by Green, to approve Ordinance No. 97-58, waive the reading of the ordinance, read the title only, and declare an emergency.

(Title read by Clerk) ORDINANCE NO. 97-58

AN ORDINANCE RELATING TO MOTOR VEHICLES, AMENDING SECTION 23-541, LAWTON CITY CODE, 1995, AMENDING THE SEAT BELT REQUIREMENT MAKING IT AN OFFENSE NOT TO WEAR SEAT BELTS, AMENDING THE PENALTY PROVISIONS, AND DECLARING AN EMERGENCY.

VOTE ON MOTION: AYE: Green, Warren, Maples, Purcell, Beller. NAY: Sadler, Shanklin. MOTION CARRIED.

Mayor Marley said the emergency does not pass and the ordinance will go into effect in 30 days.

9. Consider upgrading the weapons issued to police officers to a .45 caliber Glock pistol and related web gear. Exhibits: None.

Schumpert said the City was contacted by the Glock Company regarding exchanging weapons, and the officers indicated the .45s seemed to be better balanced and have more stopping power than the current 9mm.

Bill Adamson, Police Chief, said the \$60 fee is the for exchange of the weapon from the 9mm to the .45. He said the .45s will have new night sights; existing night sights are five years old. He said the new web gear holster and ammo carrier required because of the larger weapon are to be considered in a separate agenda item. Schumpert asked if it would be an even exchange if the night sights were not involved and Adamson said yes.

Shanklin asked if the officers have a choice between a 9mm or a .45 or a 357. Adamson said no, right now all are 9mm weapons, and when the trade goes through, all officers would be carrying the .45. Beller asked if the officers supported this. Adamson said an opportunity was given for each officer to test fire the .45 to determine which weapon they felt was best; 37 officers fired the weapon and two of the 37 preferred the 40 caliber rather than the .45, and the rest were impressed with the firing of the weapon, the balance, and so forth.

Shanklin asked how many times we had to fire a pistol. Adamson said there have been three officer involved shootings this year. Maples asked if those were at suspects and Adamson said yes.

MOVED by Beller, SECOND by Green, to approve the upgrade as requested and waive competitive bidding on the weapons.

Warren asked if the .45s hold fewer rounds. Adamson said he thought it was a couple of rounds fewer but it was still a high capacity weapon. Shanklin said one of the reasons they went to the 9mm Glock was due to the number of bullets available without a reload. Adamson said the current weapon is a 17 round and the .45s are 13 or 14 round capacity.

VOTE ON MOTION: AYE: Warren, Sadler, Purcell, Shanklin, Beller, Green. NAY: Maples. MOTION CARRIED.

10. Consider adopting an ordinance providing for residency requirement and duration of boards, commissions and committees; and repealing the Commission on Aging, the Carnegie Library Board, the Computer Management Advisory Committee, the Committee for Employment of Handicapped, and the Committee for Naming Public Facilities. Exhibits: Ordinance No. 97-59.

Purcell said staff was directed to return this ordinance based on the recommendation of the board.

MOVED by Purcell, SECOND by Warren, to approve Ordinance No. 97-59, waive the reading of the ordinance, read the title only.

(Title read by Clerk) ORDINANCE NO. 97-59

AN ORDINANCE RELATING TO BOARDS AND COMMISSIONS, AMENDING CHAPTER 2, LAWTON CITY CODE, 1995, PROVIDING FOR RESIDENCY REQUIREMENTS, ESTABLISHING DURATION FOR BOARDS, COMMISSIONS AND COMMITTEES, REPEALING ARTICLES, DIVISIONS AND SECTIONS RELATING TO THE LAWTON COMMISSION ON AGING, THE CARNEGIE LIBRARY BOARD, THE COMPUTER MANAGEMENT ADVISORY COMMITTEE, THE COMMITTEE FOR EMPLOYMENT OF HANDICAPPED, AND THE COMMITTEE FOR NAMING PUBLIC FACILITIES, AND RESERVING THE ARTICLES, DIVISION AND SECTION NUMBERS FOR FURTHER USES.

VOTE ON MOTION: AYE: Maples, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

11. Consider awarding a construction contract for the Baldwin and Lincoln Waterline Replacement Project 97-17 to Dobbs Washita Construction, Inc. in the amount of \$164,985.00. Exhibits: Location Maps. (Bid tabulation of 10/21/97 on file in City Clerks Office)

Schumpert said funding source is CDBG and award is recommended; contract price is under the engineers estimate. Green asked if this is from this years block grant funding and Schumpert said he was not sure.

Purcell said the engineers estimate is usually pretty close to the bids but the successful bidder was quite a bit under the estimate. Schumpert said if the other two bids are averaged, it is pretty close. Warren asked if Dobbs Washita had done only one other contract in the past two years and Schumpert said that was the criteria for timely performance. Warren asked if it was done on time and Schumpert said yes.

MOVED by Maples, SECOND by Sadler, to award a construction contract for the Baldwin and Lincoln Waterline Replacement Project 97-17 to Dobbs Washita Construction, Inc. in the amount of \$164,985.00. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

12. Consider authorizing acceptance of a Department of Justice Grant and authorizing the Mayor to appoint a committee as required by the grant conditions. Exhibits: 9/30/97 letter.

Schumpert said a similar grant was received previously and the Mayor appointed the committee representing certain agencies as required. He said the match for this is \$27,023 and recommended funding source is Council Contingency.

Shanklin asked what the grant funds would be used for. Schumpert said police equipment would be purchased. Adamson said this is a block grant and application for it was approved by Council earlier. Adamson said one of the things the board will do is discuss the different options to purchase; we have not got a list of items at this time although one consideration is a CD reader/writer for the Service Division. Adamson said when they go to the Dictaphone system, which the Council has approved, the reports will be typed into the Citys computer system and will have to be downloaded periodically to free up space in the computer system; the digital reader/writer would do that and the hard copy would be there whenever needed even though it may be years old. Shanklin asked if any employees were included in this grant and Adamson said no. Shanklin asked if it could be used for little computers for the patrol cars and Adamson said yes, that would be equipment, but personnel cannot be hired with these funds.

Beller asked if there is a funding source other than contingency or the IOU method, and asked the balance in the contingency. Schumpert said he thought it may be \$70,000, but he would not be uncomfortable with the IOU. Beller said if there is insufficient funding, it should be brought back in April.

MOVED by Beller, SECOND by Purcell, to approve it with the IOU.

Sadler asked how long the committee would be operational. Adamson said when the funds are expended, the committee would be finished. Mayor Marley said it could be disbanded after the funds are allocated.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. OUT: Maples. MOTION CARRIED.

CONSENT AGENDA:

13. Consider the following damage claims recommended for denial: Paul and Christine Wieczorek; Mona Johnson; Maryland Commercial Insurance Group; and Tuneup Masters. Exhibits: Legal Opinions/Recommendations. Action: Denial of claims as recommended, except the claim of Paul and Christine Wieczorek, which was approved as shown below.

14. Consider the following damage claims recommended for approval and consider passage of resolutions authorizing the City Attorney to file friendly suits for the claims over \$400.00: Rogelio Grant; Mike M. Holtzman; Mary E. Macklin; Margaret Ann Nickell; Southwestern Bell Telephone; and Mary K. Tow. Exhibits: Legal Opinions/Recommendations. Macklin claim: \$296.51

(Title only) RESOLUTION NO. 97-142

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST ROGELIO GRANT IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF ONE

THOUSAND FORTY-EIGHT DOLLARS AND 68/100S (\$1,048.68).

(Title only) RESOLUTION NO. 97-143

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST MIKE M. HOLTZMAN IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF SIX HUNDRED FIFTY-ONE DOLLARS AND 37/100S (\$651.37).

(Title only) RESOLUTION NO. 97-144

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST MARGARET NICKELL IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00).

(Title only) RESOLUTION NO. 97-145

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST SOUTHWESTERN BELL TELEPHONE COMPANY IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE AMOUNT OF ONE THOUSAND SIX HUNDRED FIFTY-FIVE DOLLARS AND NINETY-SIX CENTS (\$1,655.96).

(Title only) RESOLUTION NO. 97-146

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST MARY K. TOW IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF ONE THOUSAND DOLLARS (\$1,000.00).

15. Consider a request from Comanche County Rural Water District No. 3 to service three individuals within the development ridge line. Exhibits: Letter of Request; Section 4(H) of Contract; General Location Map of Properties. Action: Approve request to provide water to John Sterling, Peggy Spradlin and Max B. Vernon.

16. Consider adopting a resolution abolishing the following committees: Board Review, Stormwater Mitigation, E911 Advisory, Building Permits & Fees, Child Care, KCA Land Use, Museum, Joint Land Use Advisory, Schoolhouse Slough Ad Hoc and the Code Review. Exhibits: Resolution No. 97-147.

(Title only) RESOLUTION NO. 97-147

A RESOLUTION ABOLISHING CERTAIN BOARDS AND COMMITTEES.

17. Consider adopting a resolution authorizing the Mayor and City Clerk to execute an agreement with the Department of Transportation of the State of Oklahoma for Right-of-Way, Public Utility and Encroachments for the West 82nd Street Reconstruction Project. Exhibits: Resolution No. 97-148; Agreement.

(Title only) RESOLUTION NO. 97-148

A RESOLUTION WHEREBY THE CITY COUNCIL OF LAWTON, OKLAHOMA, AUTHORIZES THE EXECUTION OF AN AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF OKLAHOMA FOR RIGHT-OF-WAY, PUBLIC UTILITY AND ENCROACHMENT FOR THE WEST 82ND STREET RECONSTRUCTION PROJECT UNDER PLANS AND SPECIFICATIONS FOR FEDERAL AID PROJECT NO. STP-16B(282), JOB NO. 11792(02)(03)(04), IN ACCORDANCE WITH THE TERMS AND TENOR OF 69 O.S. 1991, SECTIONS 1205, 1206, 1401, AND 1403.

18. Consider accepting a sewer main extension, easements, and maintenance bond for the improvement which will serve First Baptist East Church, and other undeveloped property. Exhibits: Location Maps. (Easements and Maintenance Bond on file in City Clerks Office) Action: Accept the sewer main extension, easements and maintenance bond. (2,400 ft. of 8" sewer main to serve the church and other undeveloped lands; two-year maintenance bond; easements are from First Baptist Church East, Inc.; Nick J. and Maria J. Richards; F.L. AKA Frank Richards and Donna G. Richards)

19. Consider accepting a sewer main extension and maintenance bond for the improvement which will serve Free Gospel Church located approximately at SW 27th Street and J Avenue. Exhibits: Location Map. (Maintenance Bond on file in City Clerks Office) Action: Accept 220 lf of 8" sewer main, three manholes and two-year maintenance bond.

20. Consider approving the plans and specifications for sewer main extension located in MacArthur Park Addition, Part 5A. Exhibits: Location Map. Action: Approve plans and specifications subject to approval of permitting by DEQ.

21. Consider accepting a drainage structure and additional easements abutting Lots 40 through 42, Block 1, Wolf Creek Addition, located at approximately NW Wolf Creek Boulevard and NW 47th Street. Exhibits: Location Map. (Easements on file in City Clerks Office) Action: Accept the drainage structure and easements abutting Lots 40 through 42, Block 1, Wolf Creek Addition. Easements are from: Lucetta E. Pullins; Carroll and Karen K. Rogers and Tom and Ruth Strickland; Hurst Construction Company, Inc.)

22. Consider authorizing the Mayor and City Clerk to execute an agreement between the City of Lawton and the

Christian Family Counseling Center in the amount of \$20,000.00 for providing counseling services for low and moderate income persons as described in the Consolidated One-Year Action Plan FY 1997. Exhibits: None. (Agreement on file in City Clerks Office) Action: Approval of item.

23. Consider approving an agreement for refuse disposal with The City of Waurika and authorize the Mayor and City Clerk to execute the agreement. Exhibits: None. (Agreement on file) Action: Approval of item.

24. Consider awarding contract for saw blades. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to Fitch Industrial, Lawton, OK.

25. Consider awarding contract for pressure transducers. Exhibits: Vendors Mailing List; Tabulation; Recommendation. Action: Award contract to Novalynx Systems, Inc.

26. Consider awarding contract for antenna tower. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to Utility Tower Company.

27. Consider awarding contract for asphalt paver. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to Kirby-Smith Machinery.

28. Consider awarding contract for sludge lagoon cleaning. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to Jennings Construction.

29. Consider awarding contract for confined space retrieval system. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to USA Bluebook.

30. Consider awarding contract for portable gas detector and accessories. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to Chief Fire & Safety.

31. Consider awarding contract for credit card acceptance program. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contract to Bank of Oklahoma.

32. Consider awarding contract for holsters and ammo pouches. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Award contracts to Tuxall and FBF, Inc.

33. Consider extending contract for welding gases. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Extend contract with Sooner Airgas to 12/31/98.

34. Consider extending contract for wrecker service. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Extend contract with Alfords Truck & Wrecker to 11/30/98.

35. Consider extending contract for oils, greases and lubricants. Exhibits: Vendors Mailing List; Bid Tabulation; Recommendation. Action: Extend contract with Glenn Oil and Texaco Lubricants.

36. Mayors Appointments. Exhibits: None.

Environmental Concerns Committee: Sara Bridges, Citizen Rep.

Traffic Commission: Shaun Wicker

Human Rights & Relations Commission: Ester Morino, Hispanic Rep.

Economic Development Authority: Richard Williams, City Council Rep

37. Consider approval of payroll for the period of November 3 through 16, 1997. Exhibits: None.

Mayor Marley said Mr. Wieczorek was present to speak on his claim and Purcell asked that it be pulled.

MOVED by Shanklin, SECOND by Purcell, to approve the Consent Agenda items as recommended with the exception of the Wieczorek claim. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Sadler. NAY: None. MOTION CARRIED.

PORTION OF AGENDA ITEM #13:

Paul Wieczorek, 7218 NW Willow Creek Drive, said his damage claim for his vehicle was recommended for denial and he wanted to be heard. He said they recently moved here from Texas, his wife is a nurse in the military and he is a teacher but cannot find a permanent job and currently substitute teaches. Wieczorek said they try to follow the laws and were attempting to buy dog tags as required by city ordinance, and parked in the parking lot to go in to get the tags at the Animal Shelter. He said as he went to pull out, he heard a noise and went to look and there was a reinforcement bar that had been sticking up out of the concrete parking bumper and it pulled his bumper off. Wieczorek said he went inside and had someone come out and look at it as a witness and he was told to file the claim. He said he was there doing what he was supposed to do that normally cost \$30, but if the claim for the damage is not paid, it will be \$700 total, or \$350 per dog. He asked that the claim be considered for approval. Wieczorek said he was not in a no parking zone but was in a City parking

lot, and he did not know how long it had been there and the person said no one had reported it before, but he felt such a problem should not exist and someone may or may not have been negligent, and he wanted to state his case.

Beller asked about how high above the concrete bumper was the rod. Wieczorek said he did not measure and went back later that evening to get pictures but it was already fixed after he had informed them. He said he was not seeking revenge but felt he should be heard; he estimated it was six to eight inches above the concrete bumper. Wieczorek said his bumper is pliable and it went under there when he pulled in, but when he backed out, it pulled the bolts out and it was rubbing on the tire.

Beller said he felt the citizen was meeting his obligation by going out there and if the rod was sticking up that far, someone should have noticed it. Beller offered a motion to approve the claim for \$668.61. Wieczorek asked to speak. Shanklin asked the model of vehicle. Wieczorek said a 1997 Plymouth Voyager. Shanklin asked if he had insurance. Wieczorek said yes. Shanklin asked the deductible and Wieczorek said \$500 and that he had planned to state that earlier but was asked to wait.

MOVED by Beller, SECOND by Green, to pay this claim in the amount of \$500. AYE: Shanklin, Beller, Green, Warren, Maples, Sadler, Purcell. NAY: None. MOTION CARRIED. (Resolution No. 97-150 was assigned to pay this claim by judgment.)

(Title only) RESOLUTION NO. 97-150

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST PAUL C. AND CHRISTINE WIECZOREK IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00).

BUSINESS ITEMS:

38. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a lawsuit styled Charles T. Taylor v. The City of Lawton, Oklahoma, Case No. CJ-97-1149, in the District Court of Comanche County, and take appropriate action in open session. Exhibits: None.

39. Pursuant to Section 307B3, Title 25, Oklahoma Statutes, consider convening in executive session to consider the purchase of the real property located at 631 SW D Avenue, Lawton, Oklahoma, and in open session take appropriate action. Exhibits: None.

40. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to consider a settlement offer received in a third party claim of Shelli L. Peppers against Paula S. Pierce, and take appropriate action in open session. Exhibits: None. (Res. 97-149)

41. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a claim of Damion Sean Hart; take appropriate action in open session. Exhibits: None.

42. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the employment of Mr. Gilbert H. Schumpert, Jr., as City Manager, and, in open session, take action on the employment of Mr. Schumpert as City Manager, to include, if appropriate, action on an employment agreement. Exhibits: None.

MOVED by Shanklin, SECOND by Purcell, to convene in executive session as recommended and shown on the agenda, with the exception of Item 42. AYE: Beller, Green, Warren, Maples, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

The Mayor and Council recessed at 7:50 p.m., convened in executive session at approximately 8:00 p.m., and reconvened in regular, open session at 8:20 p.m. with all members present on roll call except Williams.

Vincent said the Mayor and Council met in executive session and discussed the lawsuit of Charles T. Taylor v. City of Lawton, Case No. CJ-97-1149 in Comanche County District Court, in Item 38, and recommendation is that no action be taken.

Vincent said Item 39 was discussion of possible purchase of property at 631 SW D Avenue; as a result of the discussion, no action will be taken at this time.

Vincent said Item 40 involves a subrogation claim on a workers compensation case of Shelli L. Peppers. He recommended a resolution be approved authorizing the City Attorney to accept settlement in the amount of \$5,000.

MOVED by Purcell, SECOND by Warren, to approve the resolution. AYE: Warren, Maples, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-149

A RESOLUTION APPROVING AND AUTHORIZING SETTLEMENT OF A THIRD PARTY CLAIM BY SHELLI L. PEPPERS AGAINST PAULA S. PIERCE.

Vincent said Item 41 involves the claim of Damion Sean Hart under the Governmental Tort Claims Act, and recommendation is that no action be taken. He said Item 42 was pulled, therefore, his report was concluded.

REPORTS: MAYOR/CITY MANAGER/CITY COUNCIL

Shanklin asked if crews would have winter clothes on time this year. Schumpert said he had not heard of a problem but would check.

Beller said Council previously discussed having a court of record. He said an article concerning the truth in sentencing law caused concern in this regard, and OML was trying to get the population requirement lowered so Lawton could have a court of record. Beller said the law seems to indicate that the crimes had to be tried in a court of record and asked if Council should notify the legislative delegation to encourage that the requirement for population be lowered to have a court of record.

Vincent said the current level is 100,000 population and the Municipal Attorneys Association has attempted to do this about three times since 1986 but keeps getting defeated by the judiciary committee of the State Legislature. He said one proposal was to reduce the population requirement to 50,000, and the last proposal in 1991 was to reduce it to 35,000, but neither passed. Beller said this comes into play with the truth in sentencing law, and he felt a concerted effort should be made by everyone throughout the community for passage of the law. Beller asked if Council agreed that the Mayor or City Manager send letters to the legislative delegation expressing concern at this time. Mayor Marley said he would be glad to do that.

Purcell said a committee meeting was held at the OML Conference in Tulsa on this issue and several tried to get a court of record approved for 35,000 population, and it is currently 100,000 population so only Tulsa and Oklahoma City can have courts of record. He suggested the letter be sent to OML also.

Shanklin said if Fort Sill can be included, Lawton would be 100,000 population in the next census. Mayor Marley said there had been meetings with Fort Sill and they are supportive of Lawton being able to annex portions, and they are working the military side of it. He said he hoped that could be done prior to the next census.

Purcell said on the weed and trash abatement ordinance passed several months ago, as of this date, no citations have been issued because there was some confusion as to who to issue them to. He said he thought that had been resolved by the letter received today; however, the ordinance does not include realtors or agents as those who can be given citations and many times they are in charge of vacant properties that need attention. Purcell suggested the City Manager be directed to return an ordinance to include realtors or other agents of the owner. Shanklin asked who on the staff was confused and Purcell said it appeared no one knew who to issue citations to but that had been resolved, however, a problem still exists because citations cannot be given to realtors, so if there is an empty house with high weeds and grass, and a realtor sign in the front yard or an agent sign, the ordinance does not cover agents and that should be included. Vincent said unless the realty contract requires the realtor to maintain the property, the realtor does not have an obligation to mow. Purcell said he felt it should be included and the judge could determine the case because otherwise tickets would not be issued.

Shanklin asked who would write the citation and Purcell said Code Enforcement. Purcell said the question was whether you give the ticket to the owner, the man standing in the doorway, the renter, and so forth, so no tickets were given, but now they know who to give the ticket to and in going over that, it was discovered that you cannot give the ticket to the "agent" because that was left out of the ordinance.

Shanklin said if he owns a property and lives four states away, there would not be a way to give that person a ticket. Purcell agreed and said someone may be managing the house or living there, and the person managing it would be responsible for keeping it mowed.

There was no further business and the meeting adjourned at 8:30 p.m.